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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES <i>ex rel.</i> STROM,	)	No. C 05-3004 CRB
Plaintiffs,	)	
v.	)	<b>STIPULATION AND REQUEST TO</b>
SCIOS, INC. and	)	<b>VACATE CASE MANAGEMENT</b>
JOHNSON & JOHNSON,	)	<b>CONFERENCE; <del>PROPOSED</del> ORDER</b>
Defendants.	)	
	)	CMC Date: April 9, 2010
	)	Time: 8:30 a.m.
	)	Courtroom 8, 19 <sup>th</sup> Floor

Plaintiffs, the United States of America and Relator Joe Strom, and Defendants,  
Scios, Inc. and Johnson & Johnson, through their undersigned counsel of record, hereby stipulate  
STIPULATION, No. C 05-3004 CRB



1 and agree as follows:

2           1. At the March 12, 2010 case management conference, the Court ordered a phased  
3 discovery schedule, with the first phase limited to two issues: (1) Defendants' affirmative  
4 defense of reliance on advice of counsel; and (2) Johnson & Johnson's liability as a corporate  
5 entity.

6           2. Defendants have filed a Second Amended Answer that withdraws and waives any  
7 right to assert the defense of reliance on advice of counsel.

8           3. Defendant Johnson & Johnson hereby agrees to guarantee and indemnify any  
9 judgment against Defendant Scios, Inc. or any settlement amount agreed to between Plaintiffs  
10 and Defendant Scios, Inc. in the above-captioned case.

11           4. Plaintiffs will continue to pursue discovery regarding Johnson & Johnson's alleged  
12 direct liability under the False Claims Act and the common law theory of unjust enrichment.

13           5. Given the withdrawal of the advice of counsel defense and the payment guarantee by  
14 Johnson & Johnson, the parties agree that phased discovery is no longer necessary.

15           6. The parties agree that all parties may take discovery on all issues in the case beginning  
16 on the date of this Order.

17           7. The parties agree that each side (Plaintiffs and Defendants) may take up to 60  
18 depositions of fact witnesses.

19           8. The parties request the following discovery schedule:

20               Fact discovery cut-off:                               Sept. 30, 2011

21               Designation of experts:                               October 31, 2011

22               Designation of rebuttal experts:                       November 30, 2011

23               Expert discovery cut-off:                               January 31, 2012

24               Dispositive motions - last day for hearing:   April 6, 2012

25           9. Defendants requested, and the Court scheduled, a further case management conference  
26 on April 9, 2010 to discuss revising the discovery plan. Given the parties' agreement on a new  
27 discovery plan, we now request that, if the Court agrees with the parties' stipulated discovery  
28



1 plan, the April 9 case management conference be vacated. Should the Court disagree with the  
 2 parties' stipulated discovery plan, we request that the case management conference be held as  
 3 scheduled in order for the parties and the Court to discuss the plan.

4  
 5 IT IS SO STIPULATED.

6 Respectfully submitted,

7 TONY WEST  
 8 Assistant Attorney General

9 JOSEPH P. RUSSONIELLO  
 United States Attorney

10 Dated: April 2, 2010

11 By: /s/ signature on file  
 SARA WINSLOW  
 12 JULIE A. ARBUCKLE  
 Assistant United States Attorneys

13 Dated: April 2, 2010

14 By: /s/ signature on file  
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 15 PATRICIA R. DAVIS  
 RENÉE S. ORLEANS  
 16 KIMBERLY I. FRIDAY  
 Civil Division, U.S. Department of Justice

17 Attorneys for the United States  
 NOLAN & AUERBACH, P.A.  
 18 LAW OFFICES OF MATTHEW PAVONE

19 Dated: April 2, 2010

20 By: /s/ signature on file  
 KENNETH J. NOLAN, Esq.  
 21 MARCELLA AUERBACH, Esq.  
 MATTHEW B. PAVONE, Esq.  
 Attorneys for *Qui Tam* Plaintiff Joe Strom

22 QUINN EMANUEL URQUHART OLIVER &  
 HEDGES, LLP

23 Dated: April 2, 2010

24 By: /s/ signature on file  
 CHRISTOPHER TAYBACK, Esq.  
 25 Attorneys for Defendants Scios, Inc. and  
 Johnson & Johnson Inc.



~~PROPOSED~~ ORDER

Pursuant to stipulation, the discovery plan for this case shall be as set out above, and the case management conference scheduled for April 9, 2010 is hereby vacated.

IT IS SO ORDERED.

Dated: April 2, 2010

